

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:

RICHARD JOHNSON ET AL.,

Debtors.

Case No. 08 B 12062

Chapter 13

FINDINGS OF FACT AND CONCLUSIONS OF LAW IN SUPPORT OF ORDER AWARDING TO THE
LAS OFFICES OF PETER FRANCIS GERACI, ATTORNEYS FOR THE DEBTORS, FOR ALLOWANCE
AND PAYMENT OF SUPPLEMENTAL COMPENSATION

TOTAL FEES REQUESTED:	\$33,663.50	TOTAL COSTS REQUESTED:	\$0.00
TOTAL FEES REDUCED:	\$3,143.50	TOTAL COSTS REDUCED:	\$0.00
TOTAL FEES ALLOWED:	\$30,520.00	TOTAL COSTS ALLOWED:	\$0.00

TOTAL FEES AND COSTS ALLOWED: \$30,520.00

THE COURT HAS MARKED THE ATTACHED TIME AND EXPENSE ENTRIES THAT HAVE BEEN
DISALLOWED IN WHOLE OR IN PART. THE BASIS FOR EACH DISALLOWANCE IS DISCLOSED BY THE
NUMERICAL NOTATION THAT APPEARS ON THE LEFT SIDE OF EACH HIGHLIGHTED ENTRY. THE
NUMERICAL NOTATIONS REFER TO THE ENUMERATED PARAGRAPHS BELOW.

(1) **Unreasonable Time**

The Court denies the allowance in part of compensation for the following task since the professional or paraprofessional expended an unreasonable amount of time on this task in light of the nature of the task, the experience and knowledge of the professional performing the task, and the amount of time previously expended by the professional or another on the task. *In re Pettibone*, 74 B.R. 293, 306 (Bankr. N.D. Ill. 1987) ("The Court will determine what is the reasonable amount of time an attorney should have to spend on a given project... An attorney should not be rewarded for inefficiency. Similarly, attorneys will not be fully compensated for spending an unreasonable number of hours on activities of little benefit to the estate."); *In re Wildman*, 72 B.R. 700, 713 (Bankr. N.D. Ill. 1987) (same).

(2) **No Benefit to the Estate**

The court denies requests for fees relating to services that do not benefit the estate or that are not necessary to the administration of the case. 11 U.S.C. § 330(a)(4)(A). An attorney's internal work prior to retention to determine whether the attorney's firm satisfies the disinterestedness requirement of section 327 of the Bankruptcy Code does not provide benefit to the estate and is not compensable.

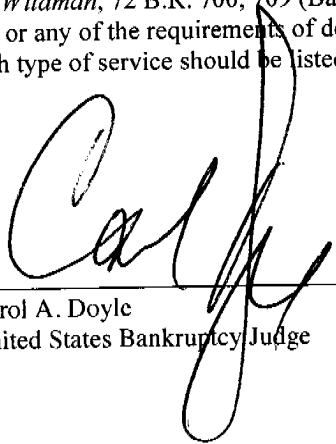
(3) **Clerical Work Not Compensable**

The court disallows the compensation of clerical or stenographic employees of the professional for the performance of routine clerical or administrative activities in the normal course of the professional's business, such as photocopying, secretarial work, or routine filing. Such activities are not in the nature of professional services and must be absorbed by the applicant's firm as an overhead expense. *In re Dimas, LLC*, 357 B.R. 563, 577 (Bankr. N.D. Cal. 2006) (citing *Missouri v. Jenkins*, 491 U.S. 274, 288 n. 10 (1989)). See also *In re Chellino*, 209 B.R. 106, 114 (Bankr. C.D. Ill. 1996) (Paralegal, but not "clerk" services entitled to compensation at an hourly rate; clerk activities are overhead of the professional); *Souza v. Miguel*, 32 F.3d 1370, 1375 (9th Cir. 1994) (Trustee not entitled to reimbursement or compensation of overhead expenses such as secretarial, stenographic, clerical, and routine messenger services).

(4) **Lumping**

The Court may impose a ten percent penalty for "lumping." *In re Wildman*, 72 B.R. 700, 709 (Bankr. N.D. Ill. 1987) ("Applicants may not circumvent the minimum time requirement or any of the requirements of detail by "lumping" a bunch of activities into a single entry. [citation omitted]. Each type of service should be listed with the corresponding specific time allotment.").

Dated Nov 5, 2009



Carol A. Doyle
United States Bankruptcy Judge

EXHIBIT C

Document Page 3 of 8

Time Itemization for Richard Johnson, Debtor

Docket No.: 08-12062

		Employee Name	Title	Rate	Time	Value
01/31/2009	Work Done received and reviewed certification of direct appeal to the court of appeals filed by Judge Wedoff	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.30 0.1	\$ 105.00 - \$70 } ①
01/31/2009	Work Done received and reviewed notice of appeal from Trustee Marshall's office	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.20 0.1	\$ 70.00 - \$35
02/02/2009	Client Email Received e-mail from client asking approximate timelines	Storer, Justin R.	Staff attorney	\$ 275.00	0.20	\$ 55.00
02/02/2009	Client Email Received e-mail from client asking about appeal notice they received	Storer, Justin R.	Staff attorney	\$ 275.00	0.10	\$ 27.50
02/02/2009	Client Email Sent e-mail to client explaining legal issue	Storer, Justin R.	Staff attorney	\$ 275.00	0.10	\$ 27.50
02/03/2009	Client Email Received e-mail from client asking if we need anything else for the argument	Storer, Justin R.	Staff attorney	\$ 275.00	0.20	\$ 55.00
02/03/2009	Client Email Sent e-mail introducing self, explaining legal issues involved and explaining that we'll be filing for additional fees for appeal work	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.30	\$ 105.00 } ②
02/03/2009	Client Email Sent e-mail to client discussing issues of case	Storer, Justin R.	Staff attorney	\$ 275.00	0.20	\$ 55.00
02/03/2009	Client Email Sent e-mail to client as to what happens if 7th Circuit rules for Trustee	Storer, Justin R.	Staff attorney	\$ 275.00	0.20	\$ 55.00
02/04/2009	Client Email Received e-mail from client explaining that he's authorizing us to file for additional compensation with Trustee's office	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.10	\$ 35.00
02/04/2009	Client Email Received e-mail from client asking for clarification regarding representation agreement	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.20	\$ 70.00
02/04/2009	Client Email Sent explanation that we'll draft a formal contract and have the client's sign it	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.10	\$ 35.00
02/04/2009	Client Email Sent e-mail to client clarifying that we'll be filing an amended claim with the trustee's office to get paid for our work	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.20	\$ 70.00
02/06/2009	Client Fax Received received and reviewed signed authorization to proceed on case	Russell, Nana Yaa O	Clerk	\$ 85.00	0.10	\$ 8.50

Time Itemization for Richard Johnson, Debtor

Docket No.: 08-12062

		<u>Employee Name</u>	<u>Title</u>	<u>Rate</u>	<u>Time</u>	<u>Value</u>	
02/13/2009	Work Done reviewed notice of appeal from Trustee	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.30 .1	\$ 105.00 - \$70	(1)
02/17/2009	Work Done researched and printed applicable case law	Curtis, Nathan E.	Supervising attorney	\$ 350.00	1.50	\$ 525.00	
03/01/2009	Work Done read and reviewed applicable caselaw	Storer, Justin R.	Staff attorney	\$ 275.00	6.00	\$ 1,650.00	
03/17/2009	Work Done read recent article by law professor Waxman	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.50	\$ 175.00	
03/17/2009	Work Done had telephone conversation with Law Professor Ned Waxman, William and Mary College of Law	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.50	\$ 175.00	
03/26/2009	Work Done discussed brief, strategy with Attorney Storer	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.40	\$ 140.00	
04/01/2009	Work Done discussed brief and strategy with Attorney Storer and researched Nowlin case (5th Circuit)	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.80	\$ 280.00	
04/06/2009	Work Done discussed Trustee's brief	Storer, Justin R.	Staff attorney	\$ 275.00	1.10	\$ 302.50	
04/07/2009	Work Done received and reviewed Trustee appellant brief	Curtis, Nathan E.	Supervising attorney	\$ 350.00	1.10	\$ 385.00	
04/08/2009	Work Done reviewed two law review articles on B22C	Curtis, Nathan E.	Supervising attorney	\$ 350.00	1.20	\$ 420.00	
04/09/2009	Work Done researched applicable caselaw	Curtis, Nathan E.	Supervising attorney	\$ 350.00	2.60	\$ 910.00	
04/09/2009	Work Done contemplated our argument and small little points thereof; the word "multiplied," 1129, "effective date of the plan," "shall be paid," Congressional intent, decision to avoid arguing under the absurdity doctrine, pre-BAPCPA analysis of "projected disposable income"	Curtis, Nathan E.	Supervising attorney	\$ 350.00	3.00	\$ 1,050.00	
04/10/2009	Work Done wrote out disagreement with Trustee on 1129 argument	Storer, Justin R.	Staff attorney	\$ 275.00	0.40	\$ 110.00	
04/13/2009	Email Sent e-mail to Justin Storer's former professor at DePaul University College of Law	Storer, Justin R.	Staff attorney	\$ 275.00	0.20	\$ 55.00	
04/15/2009	Email Received received e-mail from Professor Waxman	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.30	\$ 105.00	

Time Itemization for Richard Johnson, Debtor

Docket No.: 08-12062

		<u>Employee Name</u>	<u>Title</u>	<u>Rate</u>	<u>Time</u>	<u>Value</u>
04/15/2009	Info Only Followup reviewed Waxman's e-mail	Storer, Justin R.	Staff attorney	\$ 275.00	0.20	\$ 55.00
04/23/2009	Call Incoming spoke to Waxman on the phone	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.40	\$ 140.00
04/27/2009	Work Done worked on brief, reviewed relevant case law, outlined issues	Curtis, Nathan E.	Supervising attorney	\$ 350.00	4.10	\$ 1,435.00
04/28/2009	Call Incoming discussed issues with Professor Waxman	Storer, Justin R.	Staff attorney	\$ 275.00	0.70	\$ 192.50
04/28/2009	Work Done Worked on brief. Suggestions for our statement of the issue, summary of the issue, and outline for argument	Storer, Justin R.	Staff attorney	\$ 275.00	1.00	\$ 275.00
04/29/2009	Email Sent Drafted and sent email to Prof. Waxman regarding potential lines of argument	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.20	\$ 70.00
04/29/2009	Work Done Researched Rules of Federal Appellate Procedure	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.50	\$ 175.00
04/29/2009	Work Done worked on brief	Curtis, Nathan E.	Supervising attorney	\$ 350.00	6.00	\$ 2,100.00
04/29/2009	Work Done worked on brief	Storer, Justin R.	Staff attorney	\$ 275.00	6.10	\$ 1,677.50
04/30/2009	Call Incoming phone call with Waxman discussing several issues	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.60	\$ 210.00
04/30/2009	Email Received Received and reviewed detailed email from Prof. Waxman regarding disposable income and the various approaches as different from the approach taken by Judge Wedoff in this Case	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.30	\$ 105.00
04/30/2009	Email Received email from Prof. Waxman regarding interpretations of "disposable income"	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.10	\$ 35.00
04/30/2009	Email Sent Email to Prof. Waxman asking his opinion as to relevance of Supreme Court case Midatlantic Nat'l Bank v. NJ	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.20	\$ 70.00
05/01/2009	Email Received Email from Prof. Waxman suggest application of section 521(a)(1)(B)(6)	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.20	\$ 70.00
05/01/2009	Email Received Email reply from Prof. Waxman	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.10	\$ 35.00

Time Itemization for Richard Johnson, Debtor

Docket No.: 08-12062

		<u>Employee Name</u>	<u>Title</u>	<u>Rate</u>	<u>Time</u>	<u>Value</u>
05/01/2009	Email Sent Response to Prof. Waxman	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.10	\$ 35.00
05/01/2009	Work Done worked on brief	Storer, Justin R.	Staff attorney	\$ 275.00	10.00	\$ 2,750.00
05/01/2009	Work Done worked on brief	Curtis, Nathan E.	Supervising attorney	\$ 350.00	10.00	\$ 3,500.00
05/02/2009	Email Sent Drafted email to Prof Waxman with copy of initial draft of argument for review	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.20	\$ 70.00
05/02/2009	Work Done reviewed and commented on brief	Geraci, Peter F.	Principal	\$ 400.00	1.30	\$ 520.00
05/02/2009	Work Done worked on brief	Curtis, Nathan E.	Supervising attorney	\$ 350.00	2.50	\$ 875.00
05/03/2009	Work Done worked on brief	Storer, Justin R.	Staff attorney	\$ 275.00	3.60	\$ 990.00
05/04/2009	Email Received Emailed response from Prof Waxman	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.30	\$ 105.00
05/04/2009	Email Received Email from Prof. Waxman commenting on initial draft of brief	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.10	\$ 35.00
05/04/2009	Email Sent Email to Prof. Waxman with copy of updated brief for review and comment	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.20	\$ 70.00
05/04/2009	Email Sent Drafted email to Prof Waxman regarding his comments	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.20	\$ 70.00
05/04/2009	Work Done worked on other portions of brief, statement of facts, issue, citations	Storer, Justin R.	Staff attorney	\$ 275.00	3.00	\$ 825.00
05/04/2009	Work Done worked on brief	Storer, Justin R.	Staff attorney	\$ 275.00	3.10	\$ 852.50
05/04/2009	Work Done worked on brief	Curtis, Nathan E.	Supervising attorney	\$ 350.00	3.10	\$ 1,085.00
05/04/2009	Work Done reviewed comments on draft by Prof. Waxman	Curtis, Nathan E.	Supervising attorney	\$ 350.00	1.10	\$ 385.00
05/04/2009	Work Done worked on brief	Curtis, Nathan E.	Supervising attorney	\$ 350.00	3.00	\$ 1,050.00

Time Itemization for Richard Johnson, Debtor

Docket No.: 08-12062

		<u>Employee Name</u>	<u>Title</u>	<u>Rate</u>	<u>Time</u>	<u>Value</u>
05/04/2009	Work Done worked on brief	Storer, Justin R.	Staff attorney	\$ 275.00	6.00	\$ 1,650.00
05/05/2009	Outgoing Call call to Waxman to discuss potential issues	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.50	\$ 175.00
05/05/2009	Email Received Email from Prof. Waxman with comments	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.20	\$ 70.00
05/05/2009	Work Done corrected and finalized brief, printed, signed where appropriate, and took to Kinko's for binding	Curtis, Nathan E.	Supervising attorney	\$ 350.00	7.20	\$ 2,520.00 (3) (4)
05/05/2009	Work Done reviewed comments made by Prof Waxman on updated brief	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.60	\$ 210.00
05/06/2009	Note to Client sent copy of brief to debtors	Storer, Justin R.	Staff attorney	\$ 275.00	0.20	\$ 55.00 (3)
05/12/2009	Email Received Email from Prof Waxman re Section 101(10)(A)(ii)	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.30	\$ 105.00
05/12/2009	Letter Received Received copy of amicus brief from US DOJ	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.10	\$ 35.00 (3)
05/12/2009	Work Done reviewed US DOJ amicus brief	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.80	\$ 280.00
05/21/2009	Letter Received Received Trustee's reply brief	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.10	\$ 35.00 (3)
05/22/2009	Work Done reviewed Trustee's reply brief	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.10	\$ 35.00
07/20/2009	Work Done reviewed 7th circuit decision in Brothers v. Turner; considered application to our case	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.60	\$ 210.00
07/22/2009	Work Done received and reviewed dunford opinion of J. Schmetterer regarding 101(10)(A)(ii)	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.60	\$ 210.00
07/23/2009	Letter Received received and reviewed letter to 7th circuit with supplemental authority urging the court to affirm	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.20	\$ 70.00
07/23/2009	Work Done reviewed Nowlin 5th circuit decision	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.50	\$ 175.00

Time Itemization for Richard Johnson, Debtor

Docket No.: 08-12062

		<u>Employee Name</u>	<u>Title</u>	<u>Rate</u>	<u>Time</u>	<u>Value</u>
08/06/2009	Client Email Received Received, reviewed and docketed email from clients approving giving the US DOJ six minutes of our oral argument time, and asking for an opinion on the likelihood of success	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.20	\$ 70.00
08/06/2009	Client Email Sent Drafted and sent email response to clients advising our opinion of the likelihood of success based on Turner	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.20	\$ 70.00
08/06/2009	Client Email Sent Drafted email to clients requesting they agree to allow US DOJ oral argument time, and rationale behind that	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.20	\$ 70.00
08/06/2009	Call Incoming professor ned waxman, discussing starting point approach and 101(10)(a)(ii) (dunford case), and potential arguments to be brought up at oral argument	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.90	\$ 315.00
08/06/2009	Email Received email from DOJ requesting to share in oral argument time	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.20	\$ 70.00
08/06/2009	Email Sent Drafted and sent email to Atty Gold advising him that clients are allowing DOJ 6 minutes of argument time	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.10	\$ 35.00
08/06/2009	Email Sent Drafted response to Atty Gold at DOJ advising that I had requested client's permission to allow them oral argument time	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.20	\$ 70.00
08/07/2009	Email Received Response from Atty Gold @ DOJ thanking us for allowing them to participate	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.10	\$ 35.00
08/11/2009	Letter Received Received and reviewed motion to participate in oral argument filed by US DOJ	Curtis, Nathan E.	Supervising attorney	\$ 350.00	0.20	\$ 70.00
					105.20	
						\$ 33,663.50